

7 CFR PARTS 250.3, 250.30

## CHAPTER VIII

### PROCESSING OF COMMODITIES

#### A. OPTIONS

*Two options exist in California for the conversion of the United States Department of Agriculture (USDA) commodities into alternative end products. They are:*

- (1) State Donated Food Processing Agreements, which are administered by the Food Distribution Program (FDP) of the Nutrition Services Division; and*
- (2) National Commodity Processing (NCP) Agreements, which are administered by the USDA.*

*Under both options, the products are offered for sale at reduced prices that reflect the value of USDA-donated food contained in the end products.*

#### **State Donated Food Processing Agreement**

USDA regulations allow FDP to enter into written agreements with commercial food processors on behalf of eligible agencies for the processing of donated foods into a variety of end products.

The Donated Food Processing Agreement is a written agreement between the FDP and a commercial food processor for the production of end products made partially or wholly from food donated by the USDA.

The agreement contains the terms and conditions for the processor's participation in the program as well as specific information on the donated foods to be used, the products to be produced, and the amount of donated food contained in each unit or case of the end product.

Agencies are limited to purchasing end products containing the types of donated food for which their programs are eligible. For example, schools participating in the National School Lunch Program are eligible for Category A and B and bonus foods. End products containing these foods may be purchased from approved processors at reduced prices.

The FDP furnishes a list of food processors with approved donated food processing agreements for the current year. The list is available on the Internet at: [www.cde.ca.gov](http://www.cde.ca.gov).

The list includes the name, address, and telephone number of the processor's representative, donated foods used, and end products produced by each processor.

### **NOT ON THE LIST?**

If you are purchasing processed foods (not containing commodity foods) from a processor who does not appear on the list, and you want to send USDA-donated food to the processor for production of finished end products, refer the processor to the Nutrition Services Division at (800) 952-5609.

### **NCP QUESTIONS**

Questions concerning the NCP program should be addressed to:

**U.S. Department of Agriculture  
Food and Nutrition Service  
Nutrition and Technical Services Division  
Special Operations Branch  
National Commodity Processing Section  
Telephone No. (703) 305-2644**

### **National Commodity Processing Agreement**

The USDA Food and Nutrition Service (FNS) and private processors may enter into agreements for the processing and distribution of food.

The goals of this option are to encourage private industry in the development of new markets and to promote greater participation from recipient agencies. Any food processor may apply to the USDA for participation in the NCP program.

Since California has an existing state-administered processing program, the NCP program will probably not provide any additional processing options.

However, if an agency identifies an NCP processor whose products they would like to purchase, the agency must complete a National Commodity Processing System Post Card, Form OMB No. 0584-0325, to establish eligibility to participate in the NCP program.

The information in the rest of this chapter is applicable to state-administered agreements only.



**NOTE: THE FOLLOWING INFORMATION IS APPLICABLE ONLY TO STATE ADMINISTERED AGREEMENTS.**

## **B. RESPONSIBILITIES AND PROCEDURES**

*Agencies participating in the donated food processing program must comply with the following FDP requirements:*

### **Transfer Restrictions**

Agencies may not provide USDA-donated food to a processor who does not have a current approved Donated Food Processing Agreement.

### **End Product Data Schedule**

The agency must have a copy of the approved End Product Data Schedule(s) (EPDS) applicable to the end product(s) it is purchasing. The schedule provides the agency with the information necessary to determine if the processing program will be advantageous for them to participate in. It also helps the agency in monitoring the processor's performance.

The schedule identifies each approved end product produced by the processor. An approved FDP stamp for the current year indicates that the processor has a current approved Donated Food Processing Agreement on file. The schedule can be obtained from the processor, or the processor's broker or distributor.

Every processor who wants to participate in the USDA Commodity Food Program must submit a hard copy with original signatures of the EPDS for each product they will be producing that uses USDA-donated foods.

### **Product Information**

USDA regulations require the EPDS to list all donated foods used in the end product and any other ingredients required to yield a specific quantity of the end product. The schedule also includes information on the end product data and the value the processor must allow for the donated foods.

The EPDS provides information to assist the agency in determining whether appropriate discounts and yields are obtained from the donated food being processed.

## **Record Maintenance**

Agencies must maintain records on the quantity (in pounds) of each USDA-donated food provided to a processor. This includes donated food picked up by processors at the agency's storage facility or at the FDP distribution center on the agency's behalf and food shipped directly to the processors on the agency's behalf (Advance Order Diversion.) For further information, see Chapter III of this manual. The agency must also maintain records of the quantity (in pounds) of each USDA-donated food returned from the processor in finished end products and the quantity of end products purchased and received.

## **Inventory**

Agencies must ensure that no more than a six-month supply of each donated food is in the processor's inventory at any time. They should also plan on achieving a zero inventory balance at the end of the school year.

## **Loss of Donated Food**

An agency must report to the FDP the loss of any donated food, whether it is raw or in a finished end product, or whether the loss occurs in its storage facilities, in commercial storage, or at a food processor. If an end product is received and is found to be unacceptable, the agency should notify the FDP. If the loss occurs at the processor, or at the processor's distributor prior to delivery of the finished end product to the agency, the processor is liable for the fair market value of the lost commodity. (For more information, see Chapter IX of this manual.)

## **Provision of Information**

Agencies must provide the FDP and/or the USDA with any requested information necessary to determine and/or ensure compliance with USDA regulations governing donated food processing.

### **C. PROVIDING DONATED FOODS TO PROCESSORS**

*Depending on the donated foods to be processed, and the processor involved, donated food can be provided to processors in one or more of the following methods:*

#### **Advance Order Diversion (Direct Shipped)**

Each spring, the FDP determines which donated foods, if any, will be available for the advance order diversion to processor program for the next school year. This determination is based on the projected availability of donated food from the USDA.

Recipient agencies are advised of which donated foods are available for advance order and are requested to complete advance order forms if they wish to participate. Agencies interested in participating in the advance order program should contact the processor they plan to use to see whether the donated food will be accepted and processed by the processor.

Participating agencies must complete the Advance Order Diversion form for each donated food to be processed. Each agency's order will be combined with the orders of other agencies to achieve the full truck or railcar load that is required for direct shipment.

The processor is required to maintain an inventory of each agency's donated food and must use each agency's donated food as its orders are processed and delivered. (For more information on the Advance Order Diversion Program, see Chapter III of this manual.)

#### **Pickup of Donated Foods at Recipient Agency**

Recipient agencies may have the processor pick up the USDA-donated food at their storage facility.

#### **Pickup at FDP Distribution Center**

Recipient agencies may arrange to have a processor pick up donated food at the FDP distribution center. Agencies wishing to do this must note it on their offering form before returning it to the FDPS distribution center and indicate the amount and type of donated food to be set aside for pickup by the processor. (See Chapter III of this manual for more information regarding procedures for set-asides for processor pickup.)

## **D. AGENCY BENEFITS**

*If an agency chooses to have donated foods processed into alternative end products, it will receive a reduction in the cost of that end product. The reduction will reflect the value of the donated food contained in the finished end product. The savings will be passed on to the agency in one of the following ways, as selected by the processor:*

### **Discount System**

Under this system, an agency will receive a discount from the processor or the processor's distributor (depending on whether the transaction is a direct or indirect sale) at the time of the sale, for the value of the USDA commodity contained in the end product. The agency must get a complete Verification of Delivery (For Discount System Only) Form, which will reflect the value of the discount established by the donated food processing agreement.

### **Refund System**

Under this system, the agency may purchase end products from a processor or distributor at a negotiated retail price, without regard to the value of the USDA-donated food used in producing the end products. At the end of each month, the agency must submit a completed Verification of Delivery form (for refund system only) directly to the processor.

The processor verifies that the purchases were made and issues a refund check within ten days equal to the stated contract value of the donated foods contained in the purchased end products.

To receive a refund, agencies must submit refund applications directly to the processor within 30 days from the end

of the month in which the sales were made. Refund requests submitted after 30 days will not be honored by the processor.

### **California Value Pass Through System**

This is the primary system currently used in California. Under this system, the value of the donated food contained in each case or unit of the end products is reduced from the gross price. The processor sells the end products to a distributor at the net case price. The distributor must also sell the end product to a recipient agency at a net case price plus delivery.

End products that contain less than 75 percent USDA donated food must use the value pass through system.

### **Fee for Service**

This option is used when donated foods are provided to a processor for processing into an end product that consists primarily (75 percent or more) of a single donated food. An example is ground beef into beef patties or cheese into slices.

The processor may charge a fee for service comprising all costs incurred in the conversion from the donated food to the end product (e.g., labor, packaging, overhead, and other costs). This system shall be used only when the donated food ingredient comprises a minimum of 75 percent of the end product.

### **California Credit System**

The California Credit System allows participating agencies to order commodities for processing by approved processors using a “credit” system in lieu of a “commodity” inventory system.

Processors using the “commodity” system base their inventory on individual commodities. Therefore, the number of commodities used in the end product is the basis for price discounts. The “credit” system streamlines the process by converting the inventory into a credit account and establishing a single discount price for each end product. This prevents accumulation of excess inventory of commodities.

Substitutable commodities with 100 percent yield and end products that contain multiple commodity ingredients are eligible to participate in the project.



**FDP staff can assist you by answering your questions about the processing of USDA-donated foods at the following:**

**California Department of Education  
Nutrition Services Division  
Food Distribution Program  
1430 “N” Street, Room 1500  
Sacramento, CA 95814  
(800) 952-5609  
[www.cde.ca.gov](http://www.cde.ca.gov)**